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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: February 7, 2014

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning 

RE: #404-13: NATASHA STALLER et al. requesting a revision to the zoning District Boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:
Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A.
Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A.

MEETING DATE: February 10, 2014

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

A public hearing to consider a citizen-initiated rezoning of several parcels in the vicinity of the Newton Center Green Line Station was held on January 13, 2014. The petitioners request that 48 parcels in this area be rezoned from the Multi-Residence 1 district to a Single-Residence 3 district. Two property owners have since asked to be removed from the proposed rezoning. The following memo is intended to present additional data and analysis to address questions raised during the course of that hearing. Based on this analysis and the guidance of Newton's *Comprehensive Plan*, the Planning Department recommends denial of the proposed rezoning.

There are two primary areas of analysis to consider relative to the proposed rezoning. The first is the context of the housing environment in Newton, including the actual pace of housing development and

change, the lack of regional housing supply, and Newton's articulated housing policies as embodied in the *Comprehensive Plan*. This analysis looks at the big picture and attempts to present this proposal in relation to the larger trends the City is facing. Second are the specifics of this proposed rezoning; how would rezoning impact property owners and what are they able to do with their properties? This more specific analysis will also look at the extent to which the proposed rezoning addresses the stated objectives of the petitioners and other supporters who spoke at the public hearing.

The Housing and Development Issue

In the 1940s and '50s the City of Newton was experiencing a fundamental shift in development activity and the character of the community; this shift was driven by profound changes in the demographics of the country and the Boston region, changing transportation systems, and other factors. Newton responded by adopting the Zoning Ordinance the City still uses today. We are once again seeing major changes in demographics, transportation choices and a range of other factors occurring nationally and within the Boston region that are changing the nature of land development. Broadly speaking, the range of development issues the City is facing relate to this larger context, including the proposed rezoning. As was done 60 years ago, Newton is at a point where the City must formulate a response that carefully considers these changing trends, engages the community in discussion, and ultimately makes the decisions necessary to shape development going forward.

Demographics. All those babies born in the '40s and '50s, whose birth helped to spur the first major expansion of suburban development and new school construction, are now reaching retirement age. As retirees, many are choosing to downsize and/or urbanize, such as by renting or buying condos in mixed-use and transit-served environments similar to Newton Centre. At the same time, the millennials, born in the 1980s and '90s, are beginning their careers and also choosing similar urban environments. This confluence of demand is changing the focus of development away from outlying suburbs and towards urban cores, inner ring suburbs like Newton, and secondary urban centers.

Transportation Choice. A significant aspect of housing decisions today is towards neighborhoods that offer a variety of transportation options. With rising fuel costs, congestion, maintenance costs, and greater environmental and health awareness, more and more people are seeking access to automobile alternatives.

Housing Supply. The Boston region was one of the earliest adopters of zoning; Newton's first zoning ordinance dates to 1922 making it amongst the first in the country. Over time, communities in this region have responded to development pressure by increasingly restricting housing development at lower densities. As a result, the greater Boston region faces a significant under-supply of housing driving up housing costs due to generally high demand. The wealthier a person is, the greater ability one has to live wherever one wants via the ability to bid up the cost of housing beyond that affordable to anyone else (with a similar ability available to developers selling into that market). Given the trends

identified above, wealthy people today find many of Newton's neighborhoods highly desirable, particularly those like Newton Centre that are close to transit in an urban village environment. As long as supply is limited, those people with higher incomes will bid up the price of the housing that is available outside of the reach of middle-income people.

Newton's *Comprehensive Plan* recognizes many of these trends and, as a result, recommends increasing housing supply, particularly in and adjacent to Newton's village centers and transit stations. Not only are these the areas experiencing the greatest demand, by virtue of their mixed-use environment and transit access, they are the most readily able to accommodate additional housing. Furthermore, with some exceptions such as Riverside, the plan recommends scattered, small-scale infill development rather than large projects featuring more than 100 additional units at a time. Newton's neighborhoods and infrastructure will more readily accommodate such small-scale growth and can do so in a way that is more likely to respect the existing character of these places.

The actual pace of growth and development in Newton is reflective of this policy framework and a zoning ordinance that generally serves to restrict housing development. From 2005 to 2013 the City issued building permits for a total of 1,397 units including several multi-family development projects. With 32,400 units in the City as of 2012, this number represents no more than a 4% increase. Further factoring in that an unknown, but likely high, number of these building permits were for homes replacing existing homes, and the percent change in the total housing unit count of the City is probably closer to 2% or 3%. Excluding the multi-family developments, there were 658 single and two-family units built in the City over this timeframe. Most years the City does not produce more than 60 to 80 units and, again, many of these are simply replacements of existing homes representing no net increase in housing units.

The MR1 and SR3 districts citywide represent 4,136 and 6,800 lots respectively and each accommodated approximately 100 cases of redevelopment from 2005 to 2013, a rate of 2.5% and 1.5%. In the MR1 district, these projects included both conversion of single-family lots to two-family and two-family to two-family, all by-right projects under the ordinance. There were also five special permits granted to allow a greater number of units. In the SR3 all of the by-right projects were single-family tear-down and rebuilds. There were two special permits granted allowing multiple units in individual parcels and there were two 40B projects allowing a total of 18 additional units.

Within the MR1 district adjacent to Newton Centre there have been four redeveloped lots from 2005 to 2013. These include one two-family converted to a single-family, one single-family replaced with a new single-family, two single-families replaced with two-families, and one single-family to be replaced by two two-families as allowed by special permit granted in 2013. Overall this pace of development represents a 2% net increase in housing units, generally equivalent, though on the low end for MR1 districts in the City. The lower production rate in this area is likely due to the existing high property values, which likely make it a challenge to realize an economic return for redevelopment.

Address	Before	After	Net New Units	Special Permit?
71 Herrick Road	2-family	SF	-1	No
9 Ripley Street	SF	4-unit	3	Yes
34 Ripley Street	SF	SF	0	No
125 Warren Street	SF	2-Family	1	No
25 Chase St	SF	2-Family	1	No

The Proposed Rezoning

The previous memo on this rezoning, dated January 10, 2014, presents information on the possible impacts to property owners of a zone change from the MR1 district to the SR3. Beyond the potential for reduced value for some properties, each of the existing two-family and multi-family homes would become legally non-conforming and would require a special permit in order to do any expansion of their existing home. The FAR requirements are significantly more restrictive in the SR3 district as well, an analysis of that factor is presented below.

The existing 48 homes within the proposed rezoning area range from approximately 1,200 square feet to around 7,000 square feet¹. Of these homes, seven exceed FAR limits under either zoning district and four more would exceed FAR limits under the SR3 requirements. Another six would see the ability to expand the home drop below 500 square feet. Overall, the reduction in potential for expansion ranges from a loss of 1,500 square feet to 350 square feet, excluding those that lose the ability to expand entirely. Reduced potential for expansion of the home can translate into reduced market value, in some cases to a greater extent than the loss in the ability to build a second unit. As always, a property owner may still seek a special permit to exceed FAR. Attachment B shows where these properties are located.

Speakers at the January 13, 2014 Public Hearing identified a number of concerns with regard to new development that formed the basis of the requested rezoning. Many of these had to do with transportation and school capacity related issues. However, the actual pace of net new unit development in the neighborhood is negligible relative to those capacity concerns, especially in light of the large number of existing homes. If speeding or parking is an issue in the neighborhood, the most effective way to address those issues would be through street design, traffic calming, and coordinated parking restrictions. Similarly, environmental concerns are best addressed through tree and

¹ All FAR calculations are estimates based on the best available data. True calculations of existing FAR can only be generated through measurements of the actual home under the rules provided in the Zoning Ordinance.

stormwater regulations as zoning does little to address these issues particularly as a property-owner retains rights to cut trees or pave their property irrespective of the development capacity of the lot.

One of the greater concerns expressed, and a concern that is currently heard in many parts of the City, had to do with the preservation of community character. The proposed rezoning is at best an inexact mechanism for addressing this issue. In either zoning district, existing homes can be torn down and replaced with homes whose scale or other characteristics challenge the existing community character. The only real outcome of the proposed change would be to reduce the potential for a handful of additional units being built in the neighborhood.

The question of maintaining community character is an important one and is identified as one of the key issues for Newton in the *Comprehensive Plan*. As a result, the issue will be one of the central elements of Zoning Reform phase 2. There are a number of zoning strategies available that can be employed to address this issue from Form-Based Codes to design standards. A small number of Massachusetts municipalities have begun to use Neighborhood Conservation Districts to address this issue. Similar to historic districts but with more flexible and tailored standards, such districts can be employed to address just those aspects of the neighborhood that residents identify as integral to its character and can use an administrative regulatory approach that streamlines the process.

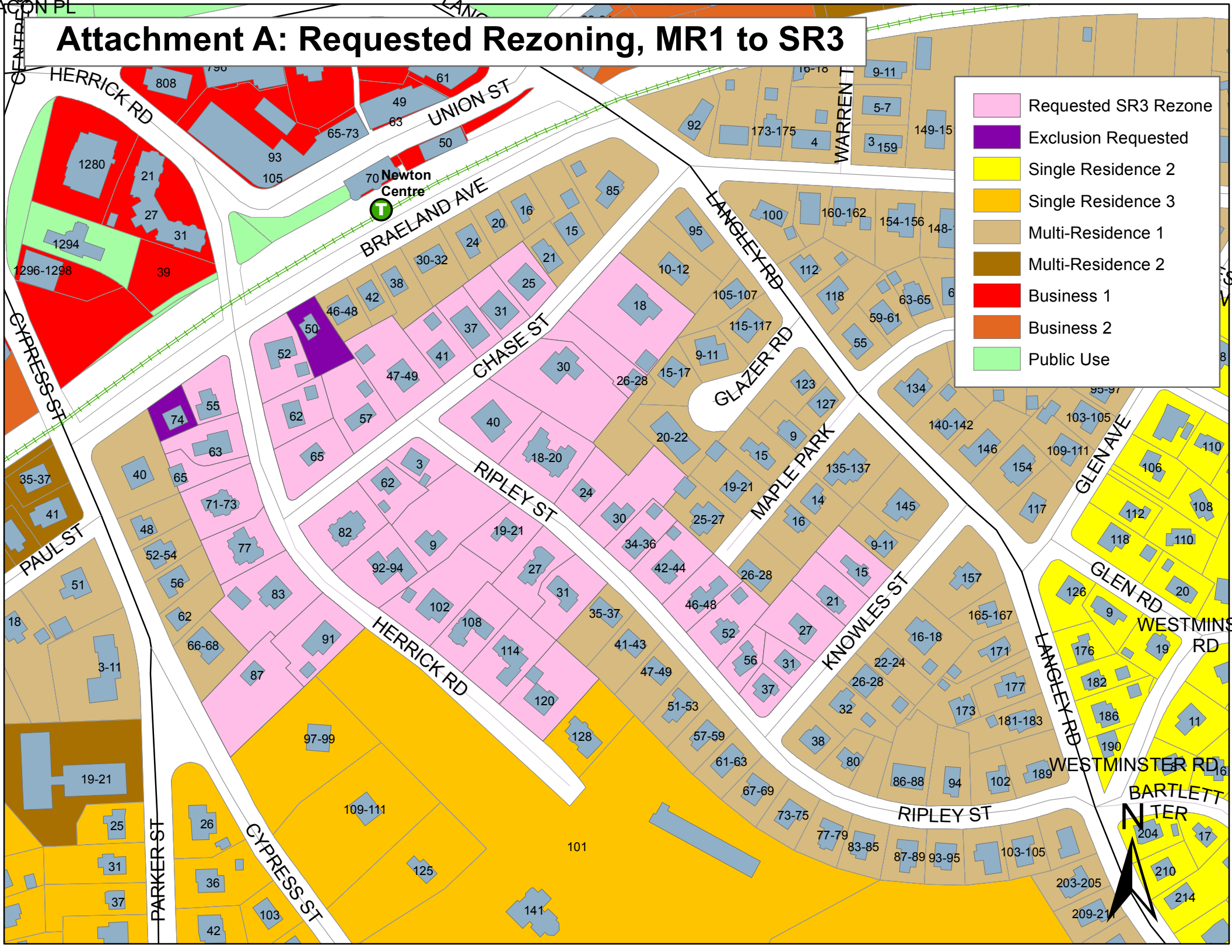
Previous Rezoning

In 2002 and 2003 the Newton Board of Aldermen considered four neighborhood rezonings, two proposing rezoning areas from the MR1 to SR3 and two proposing SR3 to MR1. While the details of each case are different, overall the results were consistent with the trend of zoning restricting housing supply; the downzonings, from MR1 to SR3, were approved and the upzonings, from SR3 to MR1, were denied. Attachment C provides notes on each of these proposed rezonings.

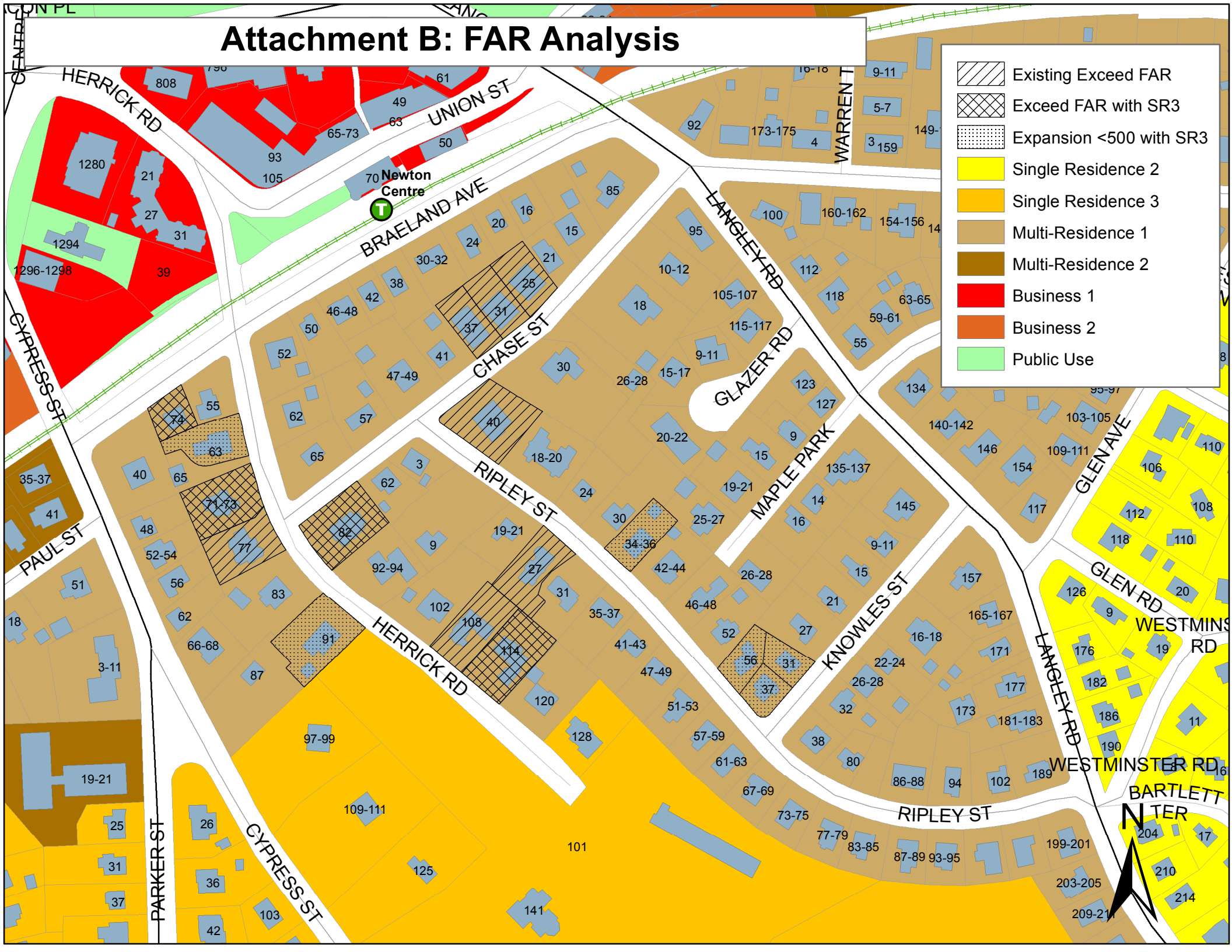
Next Steps

Given the recommendations of the *Comprehensive Plan*, alternative means of addressing the issues of concern, and the upcoming Phase 2 of Zoning Reform, the Planning Department recommends denial of the proposed rezoning. The existing neighborhood presents a mix of single- and multi-family homes in a location close to both transit and the village center and is therefore appropriately zoned to accommodate a modest growth in housing units over the long term.

Attachment A: Requested Rezoning, MR1 to SR3



Attachment B: FAR Analysis



Attachment C

PETITIONS #231-02(2), #285-02, and #286-02 of the ZONING AND PLANNING COMMITTEE OF THE BOARD OF ALDERMEN transmitting the recommendations of the Section 30-15 Task Force to rezone from Multi-Residence 1 to Single Residence 3 certain areas along OAKMONT RD. and vicinity and along WOODBINE ST. and vicinity, and to rezone from Single Residence 3 to Multi-Residence 1 certain areas along NORTHGATE PK./SOUTHGATE PK. and vicinity.

October 16, 2002 – Public Hearings

December 9, 2002 – Working Sessions

#231-02(2) Oakmont Ave, et al, re-zone from MR1 to SR3 **(Thompsonville)**

#285-02 Woodbine Street, et al, re-zone from MR1 to SR3 **(Auburndale)**

#286-02 Northgate Road, et al, SR3 to MR1 **(West Newton)**

Staff Report by M. Kruse and J. Alksnitis

#231-02(2) Oakmont Ave, et al, re-zone from MR1 to SR3 **(Thompsonville)**

- MR1 to SR3
- 35 residential lots
- “The rezoning is being suggested as a measure to prevent potential conversion of this single-family neighborhood to a more densely developed two-family area.”
- Currently consists solely of single-family homes.
- “It should be noted, that the proposed rezoning would also significantly reduce the potential for additional two-family dwellings, which we believe have the potential to provide affordable housing in Newton. “
- ***“Nevertheless, the Planning Department acknowledges that establishing the “edge” of a proposed zoning district is often very difficult, as land uses transition from a less intensive development area to a more intensive or higher density area. In this case, the Planning Department recommends **approval** of the rezoning as the appropriate approach. In our opinion, it would be unfortunate to see the neighborhood character change in this part of Thompsonville, as this area is a mature built-out neighborhood, and consists solely of single-family homes.”***
- **APPROVED** by Land Use Committee at December 9, 2002 Working Session

#285-02 Woodbine Street, et al, re-zone from MR1 to SR3 **(Auburndale)**

- MR1 to SR3
- 32 lots
- Mix of single-family, two-family, and condominium housing
- “The rezoning is being suggested as a measure to prevent potential conversion of this largely single-family neighborhood to a more densely developed area.”
- “Should the subject portion of the larger MR- 1 district be rezoned as proposed, this will insert an apparent SR-3 “enclave” within the MR-1 area. This in turn will cause an artificial zoning boundary along Woodbine Terrace, whereby this neighborhood (that is largely alike on both sides of the street) may, in the future, be divided by a zoning district line (down the middle of the street).”

Attachment C

- “In addition, it should be noted, that the proposed rezoning would also reduce the potential for additional two-family dwellings, which we believe have the potential to provide affordable housing in Newton.”
- ***“While the Planning Department acknowledges the possible protective effect of the proposed rezoning, given existing neighborhood characteristics, lot sizes, and topography, we believe it is unlikely that large-scale redevelopment, conversion or alteration of single-family homes to two-family homes will occur. In this case, the Planning Department recommends **denial** of the rezoning. A more appropriate approach would be to consider this change in the context of an articulated future comprehensive land use plan of the City in general, and neighborhood study in particular.”***
- **APPROVED** by Land Use Committee at December 9, 2002 Working Session

#286-02 Northgate Road, et al, SR3 to MR1 (West Newton)

- SR3 to MR1
- 64 lots
- “The affected area is located in the midst of a very large Single Residence 3 District that extends throughout most of West Newton, north of the Massachusetts Turnpike to the Waltham line.”
- Primarily two-family housing, some three-family and condominium
- “The rezoning is being suggested as a measure to bring existing zoning into greater consistency with the predominant two-family housing use in this area.”
- “Should the subject portion of the larger SR- 3 district be rezoned as proposed, this will create a MR-1 zone encompassed on all sides by the SR-3 District. However, unlike the Woodbine Street proposal, the size of the area and predominance throughout this area of two-family dwelling use, argue for consideration of this rezoning petition.”
- ***“Nevertheless, the Planning Department believes that the rezoning may enhance the potential to increase the affordable two-family housing stock in Newton in an area compatible with such development. In this case, the Planning Department recommends **approval** of the rezoning as the appropriate approach. The Planning Department, however, suggests tightening the boundaries of the proposed zone by eliminating the area east of Waltham Street and deleting 32 Talbot Street as discussed above in Section II., Analysis.”***
- **NO ACTION NECESSARY** by Land Use Committee at December 9, 2002 Working Session.

February 10, 2003 – Public Hearing

February 24, 2003 – Working Session

#450-02 Noble Street, et al, SR3 to MR1

Staff Report by M. Kruse and J. Alksnitis

- “The petitioner seeks to “upzone” the Noble Street block from Single Residence 3 to Multi Residence 1.”

Attachment C

- “Now that this process is underway [Comprehensive Plan], it is important that such zone changes as may be proposed be viewed in the context of an overall land use and zoning approach, rather than addressed piece-meal.”
- SR3 to MR1
- 21 lots
- “The rezoning is being requested as a measure to bring existing zoning into greater consistency with the predominant two-family housing use along Noble Street. The petitioner states that the residents seek to be able to modify their homes consistent with family needs and growth without the burden of having to go through a special permit process now required as the two-family dwellings are a nonconforming use in the Single Residence 3 zone. However, all of the lots are under the 10,000 sq. ft. minimum area requirement for current lots in an MR-1 zone and 20 of 21 lots are under the 7,000 sq. ft. minimum area requirement for pre-1953 lots. Although the existing two-family use would be rendered conforming by this rezoning, the buildings would constitute nonconforming structures potentially subject to special permit procedures on a case by case basis when owners seek building modifications.”
- “As a result, although change of zone will resolve nonconformity pertaining to use, the proposed action will not necessarily resolve nonconformity pertaining to structures.”
- “Finally, given that the process for developing a comprehensive land use plan is underway, it is important that such zone changes be viewed in the context of an overall land use and zoning plan, rather than addressed as small area rezonings. It is also noted that zoning case law suggests that zone changes undertaken within the parameters of an overall plan for an established public purpose are less vulnerable to a legal challenge alleging “spot-zoning.” “
- ***“The Planning Department recommends denial of the rezoning as proposed.”***
- **DENIED** by Land Use Committee at February 24, 2003 Working Session